REMARKS

Claims 1, 2, 7-12, and 17-20 are pending in the instant application. Claims 1 and 11 are amended by this amendment. No new matter is added. Reconsideration and allowance of the instant application are respectfully requested.

Claims 1 and 11 are rejected under 35 U.S.C. § 103(a) as unpatentable over Mekkittikul et al. (U.S. 2005/249128) in view of Duffield (U.S. 6,452,933). Applicants respectfully traverse.

Claim 1 relates to a node in a ring network system in which a plurality of insertion nodes are connected in loop through a ring transmission path that includes, *inter alia*, an every-insertion-node oriented buffer unit having individual buffer memories at which arrived packets are inserted into said ring transmission path, and accumulating the packets in said individual buffer memories, and a read control unit reading the packets in a fair way on the basis of predetermined weights respectively from said individual buffer memories. The node of amended claim 1 also includes *a storage module stored with mappings between said insertion nodes and weight values different from each other as the predetermined weights that are proportional to the number of connections for inserting the packets.*

The Examiner relies on Duffield to disclose the storage module stored with mappings recited in claim 1. However, the section of Duffield cited by the Examiner merely states "[a] weight is assigned with each of these queues *representing the portion of the output bandwidth that must be allocated* to the packets arriving in each of the queues" (Duffield; col. 4, lines 12-15; emphasis added). The Examiner further asserts that there is inherently a storage apparatus and that the weights discussed therein relating to bandwidth disclose the recited predetermined weights proportional to the number of connections (Office Action; page 3, lines 9-14). Applicants respectfully dispute this finding of inherency since the predetermined weights

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proportional to the number of connections for inserting the packets does not necessarily follow from the structure disclosed in Duffield. There is no indication that the output bandwidth to be allocated to the packets arriving in the queues in Duffield discloses or suggests *a mapping of insertion nodes including weights proportional to a number of connections for inserting packets.* The output bandwidth required in Duffield appears to be a number that fluctuates with the size and content of the members of the queue. In stark contrast, the weight values for each insertion node in the present invention change only if a new connection for inserting packets is made, or an old connection for inserting packets is removed. Duffield does not disclose the feature of the storage module as recited in claim 1, and therefore for at least this reason claim 1 is allowable.

Claim 11 relates to a packet control method in a ring network system in which a plurality of insertion nodes are connected in loop through a ring transmission path. The packet control method of claim 11 includes, *inter alia*, providing individual buffer memories at which arrived packets are inserted into said ring transmission path, and accumulating the packets in said individual buffer memories, and reading the packets in a fair way on the basis of predetermined weights respectively from said individual buffer memories. The method of claim 11 also includes *storing mappings between said insertion nodes and weight values different from each other as the predetermined weights that are proportional to the number of connections for inserting the packets.*

Therefore, claim 11 includes a feature comparable to the feature of claim 1 discussed above, and therefore for at least the same reasons as claim 1 is allowable over the combination of references, claim 11 is also allowable.

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Additionally, the motivation to combine the references provided in the Office Action, namely "to preserve fair queueing's ability to minimize end delay bounds" (Office Action; page 3, lines 18-19), merely cites to Duffield and discusses an apparent advantage of Duffield, without suggesting why such an advantage would suggest a combination with Mekkittikul. The Federal Circuit has stated that, in regard to obviousness, "a person of ordinary skill in the art must not only have had some motivation to combine the prior art teachings, *but some motivation to combine the prior art teachings in the particular manner claimed.*" (*Teleflex, Inc. et al. v. KSR Int'l Co.*, (119 Fed. Appx. 282; 2005 U.S. App. LEXIS 176); citing *In re Kotzab*, 217 F. 3d 1365, 1371 (Fed. Cir. 2000); emphasis added). The Federal Circuit in *Teleflex* found that that there was no motivation to combine one reference, the Asano patent, which disclosed all of the limitations except an electronic control, and another reference, the Rixon patent, which disclosed an electronic control and an adjustable pedal assembly. As the court further stated:

> [t]he district court correctly noted that the nature of the problem to be solved may, under appropriate circumstances, provide a suggestion or motivation to combine prior art references. However, the *test requires that the nature of the problem to be solved be such that it would have led a person of ordinary skill in the art to combine the prior art teachings in the particular manner claimed.*

(*Teleflex*, citing as background *Rouffet*, 149 F.3d at 1357; emphasis added).

It is respectfully submitted that the present rejection is similar to the rejection discussed in *Teleflex* in that there is no motivation provided in Duffield to suggest a combination with Mekkittikul, nor more particularly, to suggest a combination of the references *in the particular manner claimed*. Duffield apparently discusses a fair queuing system with adaptive bandwidth redistribution, while Mekkittikul apparently relates to bandwidth allocation tracking. However, there is no suggestion in either reference to combine the references in the manner proposed by

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the Examiner. The Examiner uses an alleged advantage of Duffield, to preserve fair queueing's ability to minimize end delay bounds, as a motivation to combine the teaching of Duffield with the Mekkittikul. As the *Teleflex* court held, there must be *specific teaching* to motivate a person of ordinary skill in the art must to combine the prior art teachings *in the particular manner claimed*. Combining the references in the manner suggested by the Examiner is the result of improper hindsight reasoning, and therefore the rejection should be withdrawn.

Claims 7, 9, 10, 12, 17, 19, and 20 (claims 2-4, 6, 13, 14, and 16 having been canceled in an previous amendment) are rejected under 35 U.S.C. § 103(a) as unpatentable over Mekkittikul in view of Duffield and further in view of in view of Kilkki (U.S. 6,219,351). Applicants respectfully traverse.

Claims 7, 9, and 10 depend from claim 1 and claims 12, 17, 19, and 20 depend from claim 11, and therefore each of these claims is allowable for at least the same reasons as their respective base claims are allowable.

Claims 8 and 18 are rejected as unpatentable over Mekkittikul in view of Duffield and Kilkki and further in view of Mansour (U.S. 2003/67931). Applicants respectfully traverse.

Claim 8 depends from claim 1 and claim 18 depends from claim 11, and therefore each of these claims is allowable for at least the same reasons as their respective base claims are allowable.
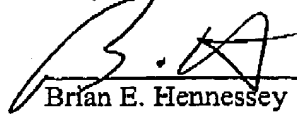
CONCLUSION

In view of the remarks set forth above, this application is in condition for allowance which action is respectfully requested. However, if for any reason the Examiner should consider

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this application not to be in condition for allowance, the Examiner is respectfully requested to

telephone the undersigned attorney at the number listed below prior to issuing a further Action.

Any fee due with this paper may be charged to Deposit Account No. 50-1290.

Respectfully submitted,

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